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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Kazuyuki TOHJI

Art Unit: 1742

Application No.: 10/812,078

Examiner: Not yet assigned

Filed: March 30, 2004

Attorney Dkt. No.: 12065-0012

For: MAGNETIC METAL POWDER AND METHOD OF PRODUCING THE POWDER

COMMUNICATION AND SUBMISSION OF DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

October 22, 2004

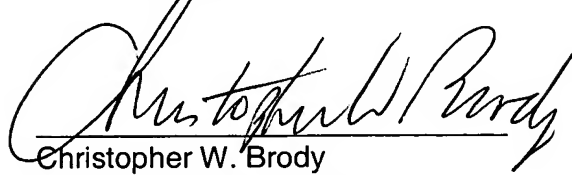
Sir:

Applicant submits herewith a Declaration under 37 CFR 1.132 for the Examiner's consideration. The purpose of this submission is to clarify that the publication identified the IDS filed on August 3, 2004 is not effective prior art against the instant application. As shown in the Declaration, the invention described in the article was made by the inventor of the instant application, and the publication does not qualify as prior art under 35 USC 102(a)/103. This submission is also being made so that prosecution is not delayed by the Examiner's citation of the article as part of a first action on the merits of the application.

An examination on the merits of this application in light of this submission is respectfully requested.

Please charge any fee deficiency or credit any overpayment to Deposit
Account No. 50-1088.

Respectfully submitted,
CLARK & BRODY

A handwritten signature in cursive script, appearing to read "Christopher W. Brody", written over a horizontal line.

Christopher W. Brody
Registration No. 33,613

Customer No. 22902
1750 K Street NW, Suite 600
Washington DC 20006
Telephone: 202-835-1111
Facsimile: 202-835-1755

10-22-04



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DECLARATION OF KAZUYUKI TOHJI UNDER 37 CFR §1.132

I, Kazuyuki Tohji hereby declare:

1) I am the sole inventor of the above-captioned patent application.

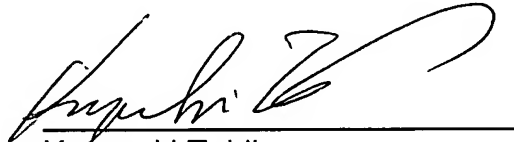
2) I am also one of the named authors of an article entitled Direct Synthesis of fct-FePt Nanoparticles by Chemical Route, published on April 1, 2003 in the Japanese Journal of Applied Physics, Col. 42, No. 4A, pp. L350-352 (hereinafter the JJAP Article). The JJAP article was made of record in this application via an Information Disclosure Statement filed on August 3, 2004.

3) The JJAP Article describes an invention relating to the direct synthesis of fct-FePt nanoparticles by chemical route. The invention disclosed in the JJAP article is my invention and it is the same invention that is described in the above-captioned patent application. The invention disclosed in the JJAP Article is based on my work alone, and is not based on the work of any of the other authors named in the JJAP Article. The other authors were working under my supervision concerning the invention disclosed in the JJAP Article.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of any patent issued thereon.

Respectfully submitted,

September 24, 2004
Date


Kazayuki Tohji